

## § 52.280 Fuel burning equipment.

- (a) \*\*\*  
(2) \*\*\*  
(i) \*\*\*

(A) Rule 2.16, *Fuel Burning Heat or Power Generators*, submitted on July 19, 1974 is disapproved; and Rule 2.16, *Fuel Burning Equipment*, submitted on February 21, 1972 and previously approved as part of the SIP in 40 CFR 52.223, is retained.

[FR Doc. 79-2985 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1032-2]

# **PART 65—DELAYED COMPLIANCE ORDERS**

## **Delayed Compliance Order for the City of Orrville, Municipal Power Plant, Orrville, Ohio<sup>1</sup>**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the City of Orrville. The Order requires the City of Orrville to bring air emissions from its Boilers Nos. 9, 10, 11, 12 and 13 at Orrville, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The City of Orrville's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 31, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 23612) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the City of Orrville. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public com-

ments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the City of Orrville by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the company on a schedule to bring its Boilers Nos. 9, 10, 11, 12 and 13 at Orrville, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. The City of Orrville is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the City of Orrville to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by the City of Orrville will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the

Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the City of Orrville is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the City of Orrville on schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: January 23, 1979.

DOUGLAS M. COSTLE,  
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

# **PART 65—DELAYED COMPLIANCE ORDERS**

1. By amending the table in § 65.400 to reflect the approval of the following order as follows:

§ 65.400 Federal Delayed Compliance Orders Issued Under Section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
City of Orrville Municipal Power Plant.	Orrville, Ohio.....	EPA-5-79-A-2.....	May 31, 1978.	OAC 3745-17-10.	July 1, 1979

[FR Doc. 79-2984 Filed 1-26-79; 8:45 am]

[6560-01-M]

## **SUBCHAPTER E—PESTICIDE PROGRAMS**

[OPP-260032; FRL 1046-7]

## **PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES**

### **Editorial Amendment**

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 11, 1978, EPA published a rule in the FEDERAL REGISTER which established a new tolerance for residues of the herbicide terbacil on mint hay (peppermint and spearmint). The new tolerance level was established at 2 ppm. At that time, the old tolerance of 0.1 ppm should have been deleted from the regulations. This rule deletes the old tolerance of 0.1 ppm from the regulations in § 180.209.

EFFECTIVE DATE: Effective on January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Gross, Program Support Division (TS-757), Office of Pesti-

<sup>1</sup> A copy of the order was submitted as a part of the original document.



cide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-4854).

**SUPPLEMENTARY INFORMATION:**

On August 11, 1978 (43 FR 35697), a tolerance was established for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its metabolites 3-*tert*-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazolo (3,2-a)pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a)pyrimidin-5-one (calculated as terbacil) in or on the raw agricultural commodity mint hay (peppermint and spearmint) at 2 parts per million (ppm). Existing tolerances for residues of terbacil in or on peppermint hay and spearmint hay at 0.1 ppm should have been deleted at the time the 2 ppm tolerance was established. This rulemaking document editorially amends 40 CFR 180.209 by deleting peppermint and spearmint hay at 0.1 ppm from the regulation.

Since this change is nonsubstantive in nature and merely clarifies and editorially amends an existing regulation, notice and public rulemaking procedures pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B) are not prerequisite to the promulgation of this regulation. This order is effective on January 29, 1979.

Dated: January 24, 1979.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Part 180, Subpart C, § 180.209 is amended by deleting peppermint hay and spearmint hay at 0.1 ppm from the table in paragraph (a) as follows:

**§ 180.209 [Amended]**

In § 180.209 *Terbacil; tolerances for residues*, "Peppermint hay" and "Spearmint hay" at 0.1 part per million are deleted from the list of commodities in the table in paragraph (a).

[FR Doc. 79-2981 Filed 1-26-79; 8:45 am]

**[4110-12-M]**

**Title 42—Public Health**

**CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 50—POLICIES OF GENERAL APPLICABILITY**

**CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES**

**Federally Funded Sterilizations**

AGENCY: Public Health Service; Health Care Financing Administration, HEW.

ACTION: Final Rule: Change of Effective Date.

SUMMARY: On November 8, 1978, the Public Health Service, the Health Care Financing Administration, and the Office of Human Development Services, published three parallel sets of regulations governing expenditures for sterilizations under various HEW programs. (43 FR 52146, 52171, 52173.) These regulations provide that Federal funding is available for sterilizations only if the individual to be sterilized has given informed, written consent in accordance with the specific requirements detailed in the regulations. Except for two specified situations, the consent must be obtained on an approved consent form at least 30 days before the date of sterilization.

The effective date of these rules was set at February 6, 1979 (90 days after the date of publication). This meant that they would apply to all sterilizations performed on or after February 6. However, because of the requirement that consent be obtained, in most cases, 30 days before the procedure, the February 6 effective date called for the consent forms to be distributed by January 7. We have learned that this was not feasible, particularly with respect to distribution by State agencies for the Medicaid program.

In order to allow the States adequate time to meet the requirements of these rules, we are delaying their effective date until March 8, 1979. This means that the regulations published on November 8, 1978 apply to all sterilizations performed on or after March 8, 1979.

To ensure uniformity, we are also delaying the effective date of the Public Health Service regulation.

In a separate notice published elsewhere in this issue, we have delayed the effective date of the Office of Human Development Services (OHDS) sterilization regulation.

EFFECTIVE DATE: The rules published on November 8, 1978 are effective on March 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Paul Willging, 202-245-0128.

Dated: January 23, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 79-3008 Filed 1-26-79; 8:45 am]

**[4110-12-M]**

**Title 45—Public Welfare**

**CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV, PARTS A AND B OF THE SOCIAL SECURITY ACT**

**PART 222—SERVICE PROGRAMS OF AGED, BLIND OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT**

**PART 228—SOCIAL SERVICE PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT**

**Federal Financial Participation in State Claims for Sterilization**

AGENCY: Office of Human Development Services (OHDS), HEW.

ACTION: Final Rule: Change of Effective Date.

SUMMARY: The effective date for the rules governing expenditures for sterilizations funded by OHDS (published on November 8, 1978, at 43 FR 52173) is delayed from February 6, 1979 until March 8, 1979. The reasons for this delay are explained in the notice delaying the effective date of the sterilization regulations of the Public Health Service and the Health Care Financing Administration, published elsewhere in this issue.

EFFECTIVE DATE: The regulations published on November 8, 1978 are effective on March 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mrs. Johnnie U. Brooks 202-245-9415.

Dated: January 23, 1979.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 79-3009 Filed 1-26-79; 8:45 am]



[6712-01-M]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-822]

## PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

## Amendment of Rule Concerning Misuse of Information

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Because the Government in the Sunshine Act requires advance notice of the subject and date of Commission meetings, FCC amends standards of employee conduct to permit disclosure of such information and extends *ex parte* rules to prohibit *ex parte* communications from any interested person who knows that the question of designating a case for hearing will be considered at a Commission meeting.

EFFECTIVE DATE: February 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

## FOR FURTHER INFORMATION CONTRACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

## ORDER

Adopted: November 30, 1978.  
Released: January 23, 1979.

1. Section 19.735-206 of the rules and regulations currently prohibits staff "disclosure of information about the content or scheduling of agenda items." Because the Government in the Sunshine Act requires seven days notice of the subject and the date for consideration of such items, and because disclosure as to scheduling is sometimes necessary for other reasons, it is appropriate to note Sunshine disclosure as an exception to this general prohibition, and to eliminate that part of the prohibition relating to scheduling.

2. This section also prohibits "disclosure of actions or decisions by the Commission prior to the public release of such information." Insofar as this provision relates to actions or decisions at a Commission meeting opened to the public under the Sunshine Act, it is no longer appropriate. Members of the public who are unable to attend a Commission meeting should be afforded, upon request, the same access to information concerning actions at an open meeting as those who did in

fact attend. We are therefore amending this provision to apply only to actions taken at Commission meetings which are closed to the public or by circulation.

3. Accordingly, it is ordered, Effective February 2, 1979, That § 19.735-206 is amended as set out in the Appendix hereto. Authority for this amendment is contained in Sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r). Because the amendments involve matters of procedure and internal standards of conduct, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

WILLIAM J. TRICARICO,  
Secretary.

## APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 19, § 19.735-206 is revised to read as follows:

## § 19.735-206 Misuse of information

Except as provided in § 19.735-203(c), or as authorized by the Commission, an employee shall not, directly or indirectly, disclose to any person outside the Commission any information, or any portion of the contents of any document, which is part of the Commission's records or which is obtained through or in connection with his Government employment, and which is not routinely available to the public and, with the same exceptions, shall not use any such documents or information except in the conduct of his official duties. Conduct intended to be prohibited by this section includes, but is not limited to, the disclosure of information about the content of agenda items (except as provided in the Government in the Sunshine Act, Pub. L. 94-409) or other staff papers to persons outside the Commission, and disclosure of actions or decisions made by the Commission at closed meetings or by circulation, unless otherwise directed by the Commission, prior to the public release of such information.

[FR Doc. 79-2896 Filed 1-26-79; 8:45 am]

[4910-60-M]

## Title 49—Transportation

## CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

## PART 178—SHIPPING CONTAINER SPECIFICATIONS

[Docket No. HM-156; Amdt. No. 178-53]

## Flattening Test Requirement for Seamless Cylinders

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations in Part 178 of Title 49, Code of Federal Regulations, pertaining to flattening tests by deleting the requirement that certain seamless cylinders be hydrostatically tested prior to the flattening test and by requiring that the longitudinal axis of the cylinder be perpendicular to the knife edges during flattening testing. This amendment allows flexibility as to when the sample cylinder may be selected, and assures uniformity in the procedures used in performing the flattening tests.

EFFECTIVE DATE: On January 29, 1979.

## FOR FURTHER INFORMATION CONTACT:

Mr. Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street S.W., Washington, D.C. 20590 (202-426-2075).

SUPPLEMENTARY INFORMATION: On January 19, 1978, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket HM-156, Notice 78-2 (43 FR 2741), which proposed these amendments. The background and basis for these amendments were discussed in that notice. Interested persons were invited to give their views prior to the closing date of March 20, 1978. The only comment received was in favor of the rule change as proposed. The commenter also suggested that the word "longitudinal" be included to clarify the orientation of the cylinder to the knife edges during testing, and the suggestion has been adopted.

Analysis of the proposed amendments and comment thereon indicate that cost of regulatory enforcement will not be significantly affected, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments.